



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order
25.08.2021

Date of Pronouncing Order
21.09.2021

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.Nos.1684 & 1685 of 2016
and
CrI.M.P.Nos.13966 & 13967 of 2016

M. Kamal @ Kamalakannan

.. Petitioner
in CrI.R.C.No.1684/2016

Sudha

.. Petitioner
in CrI.R.C.No.1685/2016

Vs.

State rep.by
The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.

.. Respondent
in both the CrI.R.Cs

Common Prayer: Petitions filed under Section 397 read with Section 401 of the Criminal Procedure Code, against the order dated 23.11.2016, passed by the learned Assistant Sessions Court (Sub Court), Chidambaram in Cr.M.P.Nos.714 & 715 of 2016 respectively in S.C.No.66 of 2016 and set aside the same.

For Petitioner : Mr. T. Ramesh

For Respondent : Mr. R. Vinoth Raja,
Government Advocate

C O M M O N O R D E R

The matter is heard through "Video Conference".

2. The petitioners, who are arrayed as accused Nos.16 & 17 respectively in S.C.No.66 of 2016, have filed a



petitions in CrI.M.P.Nos.714 & 715 of 2016 respectively under Section 227 of Cr.P.C., before the Assistant Sessions Court (Sub Court) at Chidambaram, seeking to discharge them from the above said sessions case in S.C.No.66 of 2016 and the said petitions were dismissed and hence, the present criminal revision cases have been filed before this Court.

3. The case of the prosecution is that on 08.08.2015, the accused persons numbering about 14 entered the TASMAC shop with iron rods and sticks and also attacked the defacto complainant at the instigation of accused Nos.15 to 17. The defacto complainant is one Jaganathan, Salesman at TASMAC shop. The accused persons also alleged to have damaged the liquor bottles worth about Rs.15,000/-. On the basis of the complaint given by the defacto complainant, the respondent-police has registered FIR in Crime No.172 of 2015 for the offences under Sections 147, 148, 332, 307 and 201 of IPC r/w. Section 3 of TNPPD Act and also filed a charge sheet against accused Nos.1 to 14 for the offences under Sections 147, 148, 332 and 307 of IPC r/w. Section 3 of TNPPD Act and against accused Nos.15 to 17 for the offence under Section 201 of IPC.

4. Learned counsel for the petitioner stated that Manirathinem/A15 is a business man and his wife/A.16 is a former President of the Nattarmangalam Panchayat union and A.17 is their son and due to the political controversy, their names have been tagged on.

5. Heard the learned Government Advocate (CrI.Side) and perused the records.

6. The petitioners have filed the above discharge petitions alleging that as against accused Nos.15 to 17, charge is framed under Section 201 of IPC. But the statement of witnesses does not disclose any overt act in respect of the charge under Section 201 of IPC. To attract an offence under Section 201 of IPC, the essential ingredients to be established are as follows:-

(i) Committal of an offence; (ii) person charged with the offence under Section 201 of IPC must have the knowledge or reason to believe that an offence has been committed; (iii) person charged with the said offence should have caused disappearance of evidence; and (iv) the act should have been done with the intention of screening the offender from legal punishment or with that intention he should have given



information respecting the offence, which he knew or believed to be false.

7. It is needless to say that to screen the offender committing an offence must be the primary and sole aim of the accused and mere suspicion is not sufficient. There must be some material on record as a cogent evidence to prove that the accused knew or had information sufficient to lead them to believe that the offence had been committed and that the accused has caused the evidence to disappear in order to screen the offender, known or unknown.

8. Relying upon the above legal position, the petitioners seek to allow the above criminal revision case.

9. On perusal of the complaint, FIR, charge sheet and the statement of witnesses annexed to the final report, I find that there is nothing on record to speak about the implicated commission of offence under Section 201 of IPC as stated in the charge sheet. In other words, the essential ingredients to satisfy the prima-facie condition of presuming that the accused committing the offence under Section 201 of IPC is not found and in the absence of any material, this Court cannot be tried for the said offence. After perusing the statements, I find that the statements of witnesses are to the limited extent that the revision petitioners/A.16 & A17 respectively and A.15/Manirathinem, who is the husband of A.16 have instigated the other accused Nos.1 to 14 to do the offence. But however, even for the charge under Section 107 of IPC, about the instigation, it is not satisfied and hence, the order passed by the trial Court is liable to be set aside.

10. In the result, this Criminal Revision Cases are allowed and the order passed by the learned Assistant Sessions Judge (Sub Judge), Chidambaram, in CrI.M.P.Nos.714 & 715 of 2016 in S.C.No.66 of 2016, dated 23.11.2016, is set aside and the revision petitioners stand discharged from the sessions case in S.C.No.66 of 2016. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar



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- 1.The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.
- 2.The Assistant Sessions Court (Sub Court),
Chidambaram.
- 3.The Public Prosecutor,
High Court, Madras-104.

CrI.R.C.Nos.1684 & 1685 of 2016 and
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RGN(CO)
SB(13/10/2021)